

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

IN RE: TESTOSTERONE REPLACEMENT
THERAPY PRODUCTS LIABILITY LITIGATION

Stephen Holmes

Plaintiff(s),

v.

Eli Lilly and Company, Lilly USA, LLC,
Acrux Commercial Pty Ltd., and Acrux
DDS Pty Ltd.,

Defendant(s).

All parties are to be included per Fed.R.Civ.P. 10(a)

MDL No. 2545

Master Docket Case No. 1:14-cv-01748

Honorable Matthew F. Kennelly

Case No.: No. 1:16-cv-2168

MASTER SHORT-FORM COMPLAINT
FOR INDIVIDUAL CLAIMS

1. Plaintiff(s), Stephen Holmes

state(s) and incorporate(s) by reference the portions indicated below of Plaintiffs' Master Long Form Complaint on file with the Clerk of the Court for the United States District Court for the Northern District of Illinois in the matter entitled *In Re: Testosterone Replacement Therapy Products Liability Litigation*, MDL No. 2545. Plaintiff(s) [is/are] filing this Short Form Complaint as permitted by Case Management Order No. 20 of this Court for cases filed directly into this district.

2. In addition to the below-indicated portions of the Master Long Form Complaint adopted by the plaintiff(s) and incorporated by reference herein, Plaintiff(s) hereby allege(s) as follows:

VENUE

3. Venue for remand and trial is proper in the following federal judicial district: USDC Northern Illinois and USDC Southern Florida

**IDENTIFICATION OF PLAINTIFF(S)
AND RELATED INTERESTED PARTIES**

4. Name and residence of individual injured by Testosterone Replacement Therapy product(s) ("TRT"): Stephen Holmes, 535 Coconut Circle, Weston, FL 33326

5. Consortium Claim(s): The following individual(s) allege damages for loss of consortium: N/A

6. Survival and/or Wrongful Death claims:

a. Name and residence of Decedent when he suffered TRT-related injuries and/or death:

N/A

b. Name and residence of individual(s) entitled to bring the claims on behalf of the decedent's estate (e.g., personal representative, administrator, next of kin, successor in interest, etc.)

N/A

**CASE SPECIFIC FACTS
REGARDING TRT USE AND INJURIES**

7. Plaintiff currently resides in (city, state): Weston, FL

8. At the time of the TRT-caused injury, [Plaintiff/Decedent] resided in (city, state): Weston, FL

9. [Plaintiff/Decedent] began using TRT as prescribed and indicated on or about the following date: June 2011

10. [Plaintiff/Decedent] discontinued TRT use on or about the following date: February 2012

11. [Plaintiff/Decedent] used the following TRT products, which Plaintiff contends caused his injury(ies):

- | | |
|--|---|
| <input type="checkbox"/> AndroGel | <input type="checkbox"/> Striant |
| <input type="checkbox"/> Testim | <input type="checkbox"/> Delatestryl |
| <input checked="" type="checkbox"/> Axiron | <input type="checkbox"/> Other(s) (please specify): |
| <input type="checkbox"/> Depo-Testosterone | _____ |
| <input type="checkbox"/> Androderm | _____ |
| <input type="checkbox"/> Testopel | _____ |
| <input type="checkbox"/> Fortesta | _____ |

12. [Plaintiff/Decedent] is suing the following Defendants:

- | | |
|---|---|
| <input type="checkbox"/> AbbVie Inc. | <input type="checkbox"/> Endo Pharmaceuticals, Inc. |
| <input type="checkbox"/> Abbott Laboratories | <input type="checkbox"/> Auxilium Pharmaceuticals, Inc. |
| <input type="checkbox"/> AbbVie Products LLC | <input type="checkbox"/> GlaxoSmithKline, LLC |
| <input type="checkbox"/> Unimed Pharmaceuticals, LLC | |
| <input type="checkbox"/> Solvay, S.A. | <input type="checkbox"/> Actavis, Inc. |
| <input type="checkbox"/> Besins Healthcare Inc. | <input type="checkbox"/> Actavis Pharma, Inc. |
| <input type="checkbox"/> Besins Healthcare, S.A. | <input type="checkbox"/> Actavis Laboratories UT, Inc. |
| <input checked="" type="checkbox"/> Eli Lilly and Company | <input type="checkbox"/> Anda, Inc. |
| <input checked="" type="checkbox"/> Lilly USA, LLC | |
| <input checked="" type="checkbox"/> Acrux Commercial Pty Ltd. | |
| <input checked="" type="checkbox"/> Acrux DDS Pty Ltd. | |
| <input type="checkbox"/> Pfizer, Inc. | |
| <input type="checkbox"/> Pharmacia & Upjohn Company Inc. | |

☐ Other(s) (please specify): _____

13. [Plaintiff/Decedent] is bringing suit against the following Defendant(s), who did not manufacture TRT and only acted as a distributor for TRT manufacturers:

N/A

a. TRT product(s) distributed: _____

b. Conduct supporting claims: _____

14. TRT caused serious injuries and damages including but not limited to the following:

Deep Vein Thrombosis

15. Approximate date of TRT injury: 2/20/12

ALLEGATIONS, CLAIMS, AND THEORIES OF RECOVERY

ADOPTED AND INCORPORATED IN THIS LAWSUIT

16. Plaintiff(s) hereby adopt(s) and incorporate(s) by reference as if set forth fully herein, all common allegations contained in paragraphs 1 through 467 of the Master Long Form Complaint on file with the Clerk of the Court for the United States District Court for the Northern District of Illinois in the matter entitled *In Re: Testosterone Replacement Therapy Products Liability Litigation*, MDL No. 2545.

17. Plaintiff(s) hereby adopt(s) and incorporate(s) by reference as if set forth fully herein, the following damages and causes of action of the Master Long Form Complaint on file with the Clerk of the Court for the United States District Court for the Northern District of Illinois in the matter entitled *In Re: Testosterone Replacement Therapy Products Liability Litigation*, MDL No. 2545:



Count I - Strict Liability - Design Defect



Count II - Strict Liability - Failure to Warn



Count III - Negligence

- ☒ Count IV – Negligent Misrepresentation
 - ☒ Count V – Breach of Implied Warranty of Merchantability
 - ☒ Count VI – Breach of Express Warranty
 - ☒ Count VII – Fraud
 - ☒ Count VIII – Redhibition
 - ☒ Count IX – Consumer Protection
 - ☒ Count X – Unjust Enrichment
 - ☐ Count XI – Wrongful Death
 - ☐ Count XII – Survival Action
 - ☐ Count XIII – Loss of Consortium
 - ☒ Count XIV – Punitive Damages
 - ☒ Prayer for Relief
 - ☐ Other State Law Causes of Action as Follows:

JURY DEMAND

Plaintiff(s) demand(s) a trial by jury as to all claims in this action.

Dated this the 12th day of February, 2016.

RESPECTFULLY SUBMITTED
ON BEHALF OF THE PLAINTIFF(S),

/s/ Scott D. Levensten

Signature

OF COUNSEL: (name) Scott D. Levensten, Esq. (IL Bar No.: 6307564)
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